REMARKS

In accordance with the above amendments, claims 1, 13, 15 and 16 (four claims) have been canceled and new claims 18-21 (four claims) have been added. Claims 2-12, 14, and 17 have been amended. No claim has been allowed.

Applicants believe that the amendments to the claims overcome all of the rejections in the detailed Action with regard to 35 USC § 112 enumerated in Items 1 and 2. In this regard, claims 1 and 13 have been canceled and all claims now refer to a "marine vessel". All the claims referring to a "barge" all in some way depend from and thereby further qualify a claim referring to a marine vessel.

The amendments to the claims also are believed to overcome the rejection under 35 USC § 102 which referred to claims 1, 3, 13 and 16 based on anticipation by the patent to Doherty (U.S. Patent 4,792,234). Note that Doherty refers unmistakably to a moveable concrete batching plant designed for land use. The present claims clearly recite a marine vessel as being a necessary element of all the claims. Doherty '234 fails to disclose an element of the claim and therefore cannot be anticipatory under 35 USC § 102(b).

It is further believed that the present claims overcome the rejections under 35 USC § 103(a) as well. In this regard, original claims 1-5, 7 and 11-17 were rejected under 35 USC §

103(a) as being unpatentable over the combination of Doherty '234 in view of Malan (U.S. Patent 3,845,631). With regard to this combination, it is noted that Malan '631 is concerned with distributing mixed concrete into a dam being constructed from a platform in the reservoir built up behind the dam using a floating platform distribution system. It is not concerned with floating a self-contained mixing plant on a marine vessel capable of off-shore operation. Note that in all cases the Malan device remains tethered and must be continuously supplied with materials for the mix. While Doherty '234 teaches a movable batching plant, there is no suggestion that such would be suitable for operation on a marine vessel as it is designed to be mobile on land and to be supplied from land vehicles with water and other materials. These functions would be destroyed if such a plant were permanently mounted on a marine vessel. Such a concrete batching plant would have to be totally re-designed in order to be suitable for mounting on a marine vessel and the suggestion that such would be advantageous cannot come from the Doherty reference. Thus, it is not believed that the combination of Doherty and Malan would suggest the combination claimed in the present invention.

It is further noted that claims 6 and 9 are rejected under 35 USC § 103(a) as being unpatentable over Doherty '234 in view of Malan '631 as applied to claim 2 and further in view of Farrell (U.S. Patent 2,319,807). The Farrell '807 reference is

decidedly a derrick and bucket lifting system for elevating buckets of concrete for discharge at a construction site. That system bears no resemblance whatsoever to the fixed conveyor system of the concrete mixing system as illustrated, described and claimed in the present application. It is believed that this rejection should not stand and it is respectfully requested that it be withdrawn.

Finally, claims 8 and 10 have been rejected under 35 USC § 103(a) as being unpatentable over Doherty '234 in view of Malan '631 and further in view of Farrell '807 as applied to claims 7 and 9 above, and further in view of John (U.S. Patent 5,522,658). Reference is made to column 5, lines 5-8, of John '658 with reference to a sump to collect used water. In this regard, applicants do not contend that they have invented a waste water sump per se but only claim the same in combination with the rest of the marine vessel-mounted plant. The John '658 reference is directed to a system for mixing lightweight concrete which includes polystyrene or other lightweight materials. That system in no way resembles the batching system of the present invention and it is noted that the gray water or waste water from that operation is derived from cleaning cement molds which do not form a part of the present system at all. It is believed that the combination of this rejection represents a cataloging of parts corresponding to claim elements only assembled through hindsight and that the references themselves neither teach or contain any

suggestion or incentive to take the indicated teachings of the four references and combine them in the manner suggested by the Examiner. While each may deal with an aspect of processing some type of concrete, they are still quite diverse and it is also believed that clearly both the Farrell and John references are believed to be somewhat beyond the scope of what one would consult given the context of the subject matter of the present invention. Accordingly, it is requested that this rejection also be withdrawn.

Applicants have reviewed the additional references which were cited, but not applied, and believe the present claims to be patentable over them.

With respect to the rejections made in the detailed Action, applicants believe that, given the above amendments, taken together with the remarks herein, the present claims are patentably distinct from any of the cited references, taken either singularly or in combination, and reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Amendment in response to the Official Action of November 16, 2004 and a Transmittal Letter, in application Serial No. 10/607,883, filed on June 27, 2003, of Thomas J. Harris et al, entitled "BARGE-MOUNTED CONCRETE MIXING SYSTEM" are being sent by facsimile transmission to: The Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 26, 2005.

Barbara L Davis

Barbara L. Davis
Secretary to C. G. Mersereau
Attorney for Applicant

Date of Signature: January 26, 2005